

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : Docket #23-cr-00251  
Plaintiff, :  
-against- :  
CHARLIE JAVICE, : New York, New York  
May 22, 2023  
Defendant.

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PROCEEDINGS BEFORE  
THE HONORABLE GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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E X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>Direct</u>	<u>Re-</u> <u>Cross</u>
None				

E X H I B I T S

<u>Exhibit</u> <u>Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir</u> <u>Dire</u>
None				

1 THE DEPUTY CLERK: Good morning. This is  
2 in the matter of US versus Charlie Javice, Case  
3 Number 23-cr-251.

4 Starting with the Government, please state  
5 your appearance for the record.

6 MS. MCLEOD: Good morning, Your Honor.  
7 Dina McLeod for the Government.

8 MR. SPIRO: And good morning, Your Honor.  
9 This is Alex Spiro. I'm joined by my colleagues  
10 Maaren Shah and Sam Nitze from Quinn Emanuel, and my  
11 client is also present.

12 THE COURT: Okay. Mr. Javice, can you --  
13 I'm sorry. Ms. Javice, can you hear us?

14 THE DEFENDANT: I can, Your Honor.

15 THE COURT: All right. Did we get  
16 appearance for the Government? I'm sorry. I've  
17 been doing a million things --

18 MS. MCLEOD: Yes, Your Honor. This is  
19 Dina McLeod for the Government.

20 THE COURT: Okay. So, Ms. Javice, do you  
21 understand you have the right to have this  
22 proceeding take place in person? And is it correct  
23 that you have chosen and are agreeing to have it  
24 take place by video?

25 THE DEFENDANT: Yes, Your Honor.

1           THE COURT: We're here for an arraignment.  
2           Is that correct?

3           MR. SPIRO: Yes, Your Honor.

4           THE COURT: All right. I have before me an  
5           indictment. Appears it was filed May 18th. The  
6           charge in Count One is that from June 2021 through  
7           November 2022, the defendant conspired with others  
8           to commit the crimes of wire fraud and bank fraud.

9           The charge in Count Two is a charge during  
10          the same period of wire fraud, specifically that the  
11          defendant engaged in a scheme to defraud by  
12          submitting false and fraudulent statements and  
13          representations about Frank and its user data, among  
14          other things to potential acquiring companies,  
15          including JPMorgan Chase, a certain bank, in order  
16          to defraud those companies out of millions of  
17          dollars consisting of the acquisition price, as well  
18          as salary, bonus and other compensation paid to  
19          Javice as a retained employee at the eventual  
20          acquiring company JPMC. And in furtherance of the  
21          scheme, the defendant transmitted and caused to be  
22          transmitted electronic communications and monetary  
23          transfers to and from the Southern District of  
24          New York.

25          The charge in Count Three is a charge of

1 bank fraud in the same time period, specifically  
2 charging that Javice engaged in a scheme to defraud  
3 by submitting false and fraudulent statements and  
4 representations about Frank and its user data, among  
5 other things to potential acquiring companies,  
6 including JPMC and a bank, in order to defraud those  
7 companies out of millions of dollars consisting of  
8 the acquisition price, as well as salary, bonus and  
9 other compensation paid to Javice as a retained  
10 employee at the eventual acquiring company JPMC.

11 The charge in Count Four is a charge of  
12 securities fraud during the same time period.  
13 Charge is that the defendant engaged in a scheme to  
14 defraud by submitting false statements and  
15 representations about Frank and its user data, among  
16 other things, to potential acquiring companies,  
17 including to JPMC, to Bank One in connection with  
18 the acquisition of equity shares, options and  
19 warrants at Frank.

20 Counsel, have you seen this indictment?

21 MR. SPIRO: Yes, Your Honor.

22 THE COURT: Have you reviewed it with your  
23 client?

24 MR. SPIRO: Yes, we have.

25 THE COURT: Are you waiving the public

1 reading?

2 MR. SPIRO: We are.

3 THE COURT: How does your client wish to  
4 plead?

5 MR. SPIRO: Not guilty.

6 THE COURT: Ms. Javice, is that correct?  
7 You wish to plead not guilty?

8 THE DEFENDANT: That's correct, Your Honor.

9 THE COURT: All right. I think that's it  
10 for the arraignment.

11 Anything else from the Government?

12 MS. MCLEOD: Yes, just briefly, Your Honor.  
13 Judge Hellerstein has set an initial pretrial  
14 conference for June 6 at 10:15 a.m. The Government  
15 would move to exclude time under the Speedy Trial  
16 Act to allow the Government to begin compiling,  
17 producing discovery, and to allow the defendant to  
18 begin reviewing that discovery.

19 THE COURT: Does counsel wish to be heard  
20 on the application?

21 MR. SPIRO: Yeah. Your Honor, I think I do  
22 need to put on the record the defense has made a  
23 discovery demand of the Government. But perhaps  
24 more importantly, we've made many Brady requests of  
25 the Government. We've been asking, frankly, from

1 the beginning, from the time that JPMorgan wanted a  
2 discount on the acquisition price, for any proof  
3 that JPMorgan relied on any of the allegations in  
4 the indictment. They produced nothing to us. We've  
5 asked the Government for the same things.

6 We've said to the Government, you know,  
7 that JPMorgan and its lawyers and advisors and all  
8 the people involved in this, there must be some  
9 communications in which they talk about what they  
10 relied upon. You have to turn those over. Those  
11 are Brady. We've got nothing.

12 And so it's a little hard for me to be  
13 consenting to time when we've been making these  
14 requests for months. And so I want to put that on  
15 the record because when Judge Hellerstein asks, I'm  
16 going to say the same thing, which is that we are  
17 aware that this information exists. I don't know  
18 whether JPMorgan is not sharing it. I don't know  
19 whether the Government hasn't gone through it yet.  
20 But right now, we don't have it, and that's an issue  
21 for us.

22 THE COURT: Hold on a second. If the  
23 Government wants to say something for the record,  
24 they're welcome to.

25 MS. MCLEOD: Just briefly, Your Honor. The

1 indictment was filed late last week. All of the  
2 relevant documents will be produced through Rule 16  
3 discovery, which our obligations have just begun  
4 with the indictment. We, of course, understand and  
5 will comply with our Brady obligations, and we have  
6 had discussions with counsel about it.

7 Counsel for the defendant has been unable  
8 or unwilling to provide any additional information  
9 on the purported Brady, and so we've been unable to  
10 really engage meaningfully on that. But, of course,  
11 you know, I think all of these things will be  
12 discussed before Judge Hellerstein and I think it  
13 probably makes the most sense to do that before him.

14 THE COURT: Well, I think the only thing  
15 you need to address is the period between now and  
16 June 6th, and whether there's something unusual  
17 about this case in discovery and your obligations  
18 that should justify the speedy time exclusion.

19 MS. MCLEOD: It's voluminous discovery.  
20 It's not a particularly long amount of time to run  
21 off the clock. So if Your Honor would prefer to  
22 defer that decision to Judge Hellerstein, that's, of  
23 course, within your province to do.

24 THE COURT: I have no idea what you're  
25 talking about. Do you want -- are you making the



1 application or not?

2 MS. MCLEOD: Yes, Your Honor. I've made  
3 the application.

4 THE COURT: Okay. So is there anything you  
5 want to say about -- in further justification? It's  
6 not being deferred. You're making it to me. So  
7 anything else you want to say in further  
8 justification of the application in response to what  
9 was already said? If not, that's fine.

10 MS. MCLEOD: Only that this is a complex  
11 case. The Complaint, if Your Honor has looked at  
12 it, is very lengthy. And as a result, there's quite  
13 a bit of documentary discovery that needs to be  
14 produced. And as Your Honor is likely familiar, in  
15 white collar cases with large volumes of documents,  
16 there is quite a bit of discovery. There's quite a  
17 bit of review of discovery that needs to be done and  
18 to allow both parties to adequately prepare to  
19 consider pretrial motions, to prepare for trial. So  
20 that's the basis for the motion.

21 THE COURT: Anything else from the  
22 defendant?

23 MR. SPIRO: I don't think the Government's  
24 given any justification for this. So if the Court  
25 has any questions for me. But, again, they're going

1 to say this is a simple case. They haven't been  
2 able to produce. Neither did JPMorgan to us in  
3 civil discovery, a single email, a document. I  
4 don't see any basis for an exclusion, and we  
5 maintain our objection at this time.

6 THE COURT: All right. Well, I'm accepting  
7 the representation about the complexity of the  
8 discovery here. So I do grant the exclusion because  
9 I find the ends of justice outweigh the best  
10 interest of the public and the defendant in a speedy  
11 trial based upon the need to produce the discovery.

12 There was one other thing that you reminded  
13 me of, so I'm going to take care of it now. I'm  
14 directing the prosecution to comply with its  
15 obligations under Brady v. Maryland and its progeny  
16 to disclose to the defense all information, whether  
17 admissible or not, that is favorable to the  
18 defendant, material, either to guilt or to  
19 punishment and known to the prosecution. Possible  
20 consequences for noncompliance may include dismissal  
21 of individual charges of the entire case, exclusion  
22 of evidence, and professional discipline or court  
23 sanctions on the attorneys responsible. I will be  
24 entering a written order more fully describing this  
25 obligation and the possible consequences of failing

1 to meet it, and I direct the prosecution to review  
2 and comply with that order.

3 Does the prosecution confirm that it  
4 understands its obligations?

5 MS. MCLEOD: It does, Your Honor.

6 THE COURT: Okay. Anything else from the  
7 Government?

8 MS. MCLEOD: No, Your Honor. Thank you.

9 THE COURT: From defense counsel?

10 MR. SPIRO: No, Your Honor. Thank you.

11 THE COURT: All right. Thank you,  
12 everyone.

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C E R T I F I C A T E

I, Marissa Mignano, certify that the foregoing transcript of proceedings in the case of UNITED STATES OF AMERICA v. CHARLIE JAVICE, Docket #23-cr-00251, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Marissa Mignano  
Marissa Mignano

Date: May 26, 2023